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REMARKS

This is in response to the Office Action mailed on April 28, 2005. In the Office Action, claims 1-21 and 40-55 were rejected. Claims 22 and 23 were objected to. Claims 1, 40, and 49 have been amended. Support for the amendment can be found throughout the specification, and at least on page 14, lines 5-18. With this Amendment, pending claims 1-23 and 40-55 are presented for reconsideration and favorable action.

Claims 1-11, 15-19, 40-45, and 48-54 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 6,099,561(Alt). Claims 1-11, 14-15, 18-21, 40-45 and 47-54 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,578,075 (Dayton). Claims 40-45 and 48-54 were also rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,769,884 (Solovay).

It is believed that the claims are patentably distinct from Alt, Dayton and Solovay. Claims 1, 40 and 49 have been amended to state that the prosthesis or device comprises a non-deformable component comprising a rigid material. In contrast, the devices in Alt, Dayton and Solovay are all deformable and expandable (Alt, col. 8, line 45 et seq., Dayton, col. 5, line 60, and Solovay, col. 3, lines 43-45).

In addition, the Alt '053 embodiment referred to by the Examiner describes two layers: "a first solid layer" and "a second porous layer". (See col. 5, lines 18-20.) Solovay shows a separate layer for forming the pores. In contrast, independent claims 1 and 40 state that the pores are "formed in the rigid material" and independent claim 49 states that the pores substantially extend through the rigid material, and do not include a second porous layer.

Since Alt, Dayton and Solovay fail to teach each and every element of claims 1, 40 and 49, Alt, Dayton and Solovay fail to anticipate claims 1, 40 and 49 and the claims that depend therefrom. Claims 1-23 and 40-55 are believed allowable. Reconsideration and allowance is respectfully requested.

The Examiner further rejected claims 12-13, 46 and 55 under 35 U.S.C 103(a)

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as being unpatentable over Dayton in view of U.S. Patent No. 6,033,436 issued to Steinke et al. As discussed above, Dayton does not teach a non-deformable component comprising a rigid material. Steinke does not supply this deficiency. Claims 12-13, 46 and 55 are believed allowable. Therefore, reconsideration and allowance of claims 12-13, 45 and 55 is respectfully requested.

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Hallie A. Finucane at 612-334-3222.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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